

MEMORANDUM

DATE: Thursday 6 March 2019

FILE NO: 16-2018-625-1

PROPERTY: LOT: 500 DP: 1246178
115 Boundary Road MEDOWIE (Being Land Known as Proposed Lot 601 of the Bower Estate)

PROPOSAL: Seniors Housing Development (Staged) – 110 self-contained dwellings and associated facilities / works (including road works, landscaping, community building, bowling green, pool / gym, mens shed, signage and other associated works)

SUBJECT: Additional Information – Clarification on road widths and Clause 26 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

This memorandum has been prepared in response to the email received from Mellissa Felipe, dated Thursday 5 March 2019. The matters requested to be clarified are outlined below.

Question 1:

"Clarification on road widths and ability, or otherwise, for visitors to park in the streets (I've seen narrow roads in recent subdivisions as a problem) – detailed dimensioned cross section would be best. Understand visitor parking provision and location on plans/at briefing"

Response

The nominated road width dimensions on the plans (excluding the centre road) are 6m sealed pavement between 10m wide "road reserve" between lots. This is equivalent to between an "Access Street" and "Access Place" class in Council's infrastructure specifications which is one of Council's lower class roads for 25km/h speeds or less.

Generally the road width will allow for the provision of one car to park taking up 2.5m max width with the remaining 3.5m for passing, 3m is sufficient for a travel lane. The incorporation of a flush kerb there is sufficient room to park a car off the road partially on the verges and where there is no footpath. There are cross sections in the Civil Engineering Design Report (see Appendix K).

Car parking is provided in accordance with the SEPP. Additional parking on dwelling sites will be able stacked due to the length of the driveways (approx. 5.2m).

Question 2:

"Seniors SEPP While cl 4 of the SEPP is facilitative of allowing seniors in certain zones, it also says it applies to land where certain development is permitted. I agree that Chapter 3 of the SEPP's primary intent is to allow Seniors, where not otherwise permitted in certain zones, and this is backed by cl 26(1) which refers to DAs "made pursuant to this Chapter", but I can't see anywhere it saying the chapter doesn't apply if seniors is permissible in a LEP. It would be good to know how the proposal complies with this section and particularly cl 26. If there is any legal advice or court cases where the LEP/SEPP relationship has been addressed."

Response

Council confirms that when development for Seniors Housing is permissible under both the local LEP and SEPP (Seniors) each of which had a different assessment criteria, the Land and Environment Court (In *Trustees of the Sisters of the Good Samaritan v Warringah Council* [2011] NSWLEC 1181) confirmed that by virtue of cl.5 the SEPP (Seniors) was the principal planning document for assessment, although the local LEP still applied but only where there was no inconsistency with the SEPP.

A detailed assessment against Clause 26 of SEPP (Housing for Seniors and for People with a Disability) 2004 is provided below. A detailed assessment against Chapter 3 of the SEPP is provide in the assessment report and recommendation.

Clause 26 Location and access to facilities

Requirement	Assessment comment
(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to: (a) Shops, bank service providers and other retail and commercial services that residents may reasonably require.	The subject site is positioned on the northern periphery of Medowie. The Medowie local centre provides the services referenced above and consists of the following: • Coles Shopping Centre • Woolworths Shopping Centre • Neighbourhood shops, including banking services, shops and other retail and community services which service the Senior community Transport will be provided to the above services satisfying criteria referenced and discussed further in in subclause (3) below.
(b) Community services and recreation facilities.	The proposed development will incorporate: • A community Building • Bowling Green • Pool / Gym Facility

	• Men's Shed • Garden Shed • Caravan wash/ loading area The proposed site will be integrated within the Medowie Bower Estate which has been approved for low density residential development. The Bower Estate area offers additional recreation opportunities through the utilisation of the Bower Estate public park.
<i>(c) The practice of a general medical practitioner.</i>	The proposed community building will rooms for on-site general medical practitioner. It is noted that the Medowie area offers a number of local general medical practitioners such as: • Medowie Family Clinic • Health in Abundance Family Medical Practice • Medowie Medical Centre
<i>(2) Access complies with this clause if:</i> <i>(a) the facilities and services referred to in subclause (1) are located at a distance of not more than 400 metres from the site of the proposed development that is a distance accessible by means of a suitable access pathway and the overall average gradient for the pathway is no more than 1:14, although the following gradients along the pathway are also acceptable:</i> <i>(i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,</i> <i>(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,</i> <i>(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time, or</i>	The development plans submitted with the application detail that the gradient of the proposed footpaths comply the acceptable gradient of pathways as outlined in the SEPP. At the discretion of the panel the following condition could be incorporated into the Notice of Determination: "Prior to the issue of the construction certificate, a detailed pathway plan is to be submitted and be deemed to be satisfactory by the Principle Certifying Authority. The overall average gradient for the pathway is no more than 1:14, the following gradients along the pathway are also acceptable: <i>(i) a gradient of no more than 1:12 for slopes for a maximum of 15 metres at a time,</i> <i>(ii) a gradient of no more than 1:10 for a maximum length of 5 metres at a time,</i> <i>(iii) a gradient of no more than 1:8 for distances of no more than 1.5 metres at a time"</i> It is considered that adequate community services, recreational facilities and general medical practitioner are available on-site and can be appropriately accessed. Access to shops, bank services other retail and

	commercial services is readily available via the community bus, as required by condition 50 of the recommended conditions of consent. Condition 50 specifies: <i>"Prior to the issue of any Occupation Certificate for any dwelling, a community bus is to be available for use. The bus service shall be available for use whenever any dwelling site is occupied. Details confirming the provision and ongoing availability of the community bus are to be provided to the Principal Certifying Authority."</i>
(b) in the case of a proposed development on land in a local government area within the Greater Sydney (Greater Capital City Statistical Area)...	Not applicable as the subject site is not within Greater Sydney.
(c) in the case of a proposed development on land in a local government area that is not within the Greater Sydney (Greater Capital City Statistical Area)—there is a transport service available to the residents who will occupy the proposed development: (i) that is located at a distance of not more than 400 metres from the site of the proposed development and the distance is accessible by means of a suitable access pathway, and (ii) that will take those residents to a place that is located at a distance of not more than 400 metres from the facilities and services referred to in subclause (1), and (iii) that is available both to and from the proposed development during daylight hours at least once each day from Monday to Friday (both days inclusive),	As specified above, the requirements of a community bus has been conditioned and is to be available for use prior to the issue of any Occupation Certificate for any dwelling. All facilities and services referred in subclause (1) are located within 400m of the Ferodale Road neighbourhood shops, including the adjoining Woolworth and Coles shopping centres. Council is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2).

The assessment confirms that the development satisfies both SEPP (Housing for Seniors or People with a Disability) 2004 Chapter 3 – Development for Seniors housing, including clause 26 and Port Stephens Local Environmental Plan 2013.